

## **REMARKS/ARGUMENTS**

The Office Action mailed February 9, 2006 has been reviewed and carefully considered. Claims 1, 2, 4-6, 11, 14-18, 20, 22, 23, 25, 39-58, 60-78, and 80 are pending in this application, with claims 1, 14, 20, 23, 40, 63, 69 and 72 being the only independent claim. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

### **Claim Amendments**

Claims 20, 23, and 40 are amended to each recite “generating an updated virtual television broadcast by incorporating the additional news story into the previously generated virtual television broadcast”. This clarifies that the existing virtual television broadcast is updated with the additional news story. Support for this limitation is found on page 15, lines 14-17.

Claim 14 is amended to correct a minor typographical error.

### **Rejection of Claims under 35 U.S.C. §103**

Claims 1, 4, 5, 14, 16, 41-53, 62, 65, 68-71, and 76-78 stand rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 6,192,340 (Abecassis) and Musicbox Jukebox software, in view of U.S. Patent No. 6,470,378 (Tracton) and U.S. Patent No. 6,167,251 (Segal) and further in view of U.S. Patent No. 5,351,075 (Herz).

Claims 6, 11, 17-18, 66, 67, 74, and 75 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis, Musicbox Jukebox software, in view of Tracton, Segal, and Herz, and further in view of U.S. Patent No. 6,199,076 (Logan).

Claims 20, 22, 23, 25, 36, 40, 54-58, 61, and 80 stand rejected under 35 U.S.C. §103 as unpatentable over Logan in view of Abecassis, Musicbox Jukebox software, Tracton and Segal, and further in view of U.S. Patent No. 6,188,398 (Collins-Rector).

Claims 26-35, 39, and 59-60 stand rejected under 35 U.S.C. §103 as unpatentable over Logan in view of Abecassis and Musicbox Jukebox software, in further view of Segal and Tracton.

Claims 64 and 73 stand rejected under 35 U.S.C. §103 as unpatentable over Abecassis and Musicbox Jukebox software in view of Tracton, Segal, and Herz, and further in view of U.S. Patent No. 6,650,902 (Richton).

Claims 63 and 72 are allowed.

Independent claims 1, 14, and 69

The Examiner acknowledges that Abecassis , Musicmatch, Segal and Tracton fail to disclose the steps of applying a ranking using the virtual broadcast device. The Examiner states that Herz discloses this feature and that it would have been obvious to include the teachings of Herz with the combined teachings of Abecassis, Musicmatch, Segal, and Tracton. As explained below, Herz fails to disclose, teach or suggest “applying a ranking, using the virtual broadcast device, to at least one of the songs in the virtual broadcast while the at least one of the songs is being presented”, as recited in claims 1, 14, and 69.

Herz discloses a home video club television broadcasting system including a library 20 of video programs connected to a transmission unit 30 (see Fig. 1; and col. 5, lines 1-5, of Herz). Selected video programs are broadcast over channels to viewers (col. 5, lines 5-8). The viewers that are registered for the service vote for programs by referring to a list of available videos or magazines which list upcoming releases (col. 5, lines 60-63). That is, the voters select from a list of potential programs. Furthermore, Herz discloses that votes are provided using a telephone to input votes to the transmission unit via a video program schedules 60 (col. 5, lines 36-43).

Since Herz discloses that a phone is used to vote, Herz fails to disclose “applying a ranking, by a user using the virtual broadcasting device”, as expressly recited in independent claims, 1, 14, and 69. Also, since Herz discloses that the vote by the viewer is made based on a list of videos in the video library or videos to be released, the combined teachings of Herz fails to disclose, teach, or suggest applying a ranking “to at least one of the songs in the virtual broadcast while the song is being presented”, as also expressly recited in independent claims, 1, 14, and 69. The voting disclosed by Herz from a list of possible programs can not be considered to be applying a ranking while a program is being presented.

In view of the above amendments and remarks, independent claims 1, 14, and 69 are allowable over Herz in view of Abecassis, Musicbox Jukebox software, Tracton, and Segal.

#### Independent claims 20, 23, and 40

The Examiner states that the claim language is silent with regards to the virtual broadcast being the same, or an existing broadcast. Applicant has amended each of claims 20, 23, and 40 to recite “generating an updated virtual television broadcast by incorporating the additional news story into the previously generated virtual television broadcast”. This now clearly recites that the existing virtual television broadcast is updated. As discussed in our previous argument, each download request in Logan creates a new program sequence as shown in Fig. 2 of Logan and description beginning at col. 8, line 12. This portion of Logan does not teach or suggest that additional information to be broadcast is incorporated in the previously generated virtual broadcast or program, as now expressly recited in independent claims 20, 23 and 40. Abecassis, MusicMatch, Segal, and Tracton also fail to disclose this recited feature. Accordingly, it is respectfully submitted

that independent claims 20, 23, and 40 are allowable over Logan, Abecassis, MusicMatch, Segal, and Tracton.

Dependent claims

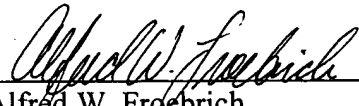
Dependent claims 2, 4-6, 11, 15-18, 22, 25 39, 41-58, 60-62, 64-68, 70-71, 73-78, and 80, each being dependent on one of independent claims 1, 14, 20, 23, 40, 63, 69 and 72, are allowable for at least the same reasons expressed above with respect to independent claims 1, 14, 20, 23, 26, 40, 63, 69 and 72, as well as for the additional recitations contained therein.

Dependent claim 80 recites "establishing a connection to a web site and downloading updated news stories at periodic intervals, incorporating the updated new stories in the virtual broadcast by replacing older news stories in the virtual broadcast". Support for this limitation is found in the specification at page 15, lines 14-17. It is respectfully submitted that none of the prior art of record discloses this limitation.

In view of all the above amendments and remarks, the application is deemed to be in condition for allowance and notice to that effect is solicited.

Respectfully submitted,  
COHEN, PONTANI, LIEBERMAN & PAVANE LLP

By

  
Alfred W. Froebrich  
Reg. No. 38,887  
551 Fifth Avenue, Suite 1210  
New York, New York 10176  
(212) 687-2770

Dated: June 8, 2006